

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7375**

**BILL NUMBER:** SB 237

**NOTE PREPARED:** Jan 5, 2009

**BILL AMENDED:**

**SUBJECT:** False Informing and DNA Collection.

**FIRST AUTHOR:** Sen. Merritt

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *DNA Sample:* The bill requires all persons arrested after June 30, 2009, to submit a DNA sample.

*False Informing:* It makes knowingly providing false information during an official law enforcement investigation a crime.

It also makes conforming amendments.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *Summary:* It is estimated that the Indiana State Police (ISP) will incur new expenses of between \$2.7 M and \$6.6 M each year to analyze and maintain DNA samples. (The lower end of this estimate will require a one-time investment of \$900,000, bringing the first year total to \$3.6 M) The increase will result from DNA sampling of any person arrested for a felony or a misdemeanor offense, regardless of disposition of the crime or sentence imposed. Also, there are no data available to indicate if changes to the definition of the false reporting will result in additional conviction for false informing, a Class B misdemeanor, or a Class A misdemeanor in certain circumstances.

**Background on DNA:** Current law requires individuals convicted of a felony offense or conspiring to or attempting to commit a felony offense after June 30, 2005, to provide a DNA sample to the Department of Correction (DOC), the county sheriff, or the agency supervising the individual. This bill would also require any person arrested after June 30, 2008, including those arrested for felony or misdemeanor offenses to

provide DNA samples.

*Estimating the Added Samples:* No statewide data exists concerning the number of arrests for felony or misdemeanor offenses. Below, the estimated total arrests for felony and misdemeanor offenses is provided based on the Uniform Crime Report (UCR), which is gathered by the Federal Bureau of Investigation, Indiana State Court Administrator court statistics, and 2006 DOC admissions data.

Estimated Total Arrests in Indiana and Additional Samples							
	2003	2004	2005	2006	2007	Average	Minimum
<b>Felony Arrests</b>	208,042	215,441	229,883	170,293	215,449	207,822	170,293
<b>Misdemeanor Arrests</b>	152,421	155,362	152,198	152,142	152,280	152,881	152,142
<b>Total</b>	360,463	370,803	382,081	322,435	367,729	361,504	322,435
<b>Less: Guilty</b>	112,364	115,570	118,445	99,955	113,996	112,066	99,955
<b>Less: Prior Arrest</b>	123,238	126,754	129,908	109,628	125,028	122,911	109,628
<b>Est'd Add'l Samples</b>	126,863	130,482	133,728	112,852	128,705	126,526	112,852

The felony arrests in the table are from the UCR total arrests. The misdemeanor arrests are the number of misdemeanor filings in a court of record. The UCR only reports arrests for certain offenses, and not all Indiana law enforcement agencies report for the UCR. Misdemeanor arrests that are not prosecuted would not be reflected in the filing numbers presented.

However, these data overstate the number of individuals who will have to submit a DNA sample for two reasons:

- An individual may be arrested more than one time in a year.
- Individuals may be arrested who already have a DNA sample in the state DNA database.

In order to correct the number of arrests for overstatement, stand-in statistics were developed:

- An estimated 31% of all cases in a court of record are disposed by a guilty plea, admission, or by default based on Case Dispositions for All Cases in Courts of Record from the State Court Administrator between 2003 and 2007. This analysis assumes that these offenders, having been found guilty, would have to provide a DNA sample under current law.

- Based on 2006 DOC admission data, 34% of the offenders classified as new commitments had a prior Indiana commitment to a DOC facility. In this analysis, the percentage is applied to arrests to account for those who would have been previously arrested.

*Estimating the Added Costs:* There are two components to DNA sampling: collection and analysis. The ISP currently contracts DNA collection for between \$17.75 and \$18.75. Most analysis is completed for \$28.99 per sample. However, if the vendor is over capacity, the cost increases to \$39. The ISP estimates it could do DNA collection and analysis in house with the purchase of additional equipment. ISP in-house collection costs are estimated at \$5, and the cost of analysis is \$19 per sample.

The following table estimates the number of additional samples that will be collected for persons arrested and costs of collecting and analyzing the additional DNA samples. A cost range is estimated by applying a low and high number of samples that would be processed and multiplying by the a range of collection costs of between \$24 (\$5 + \$19) if all samples can be processed in house, and \$52.25 if all samples are outsourced for analysis (18.25 + \$34). A one-time cost of \$900,000 for new instruments is included in the low costs.

Cost Range for Processing New Samples for Persons Who Are Arrested in First Year							
Range	DNA Samples Analyzed		Collection and Analysis Costs		Start-up Costs for New Instruments		Cost (In Millions)
Low	112,852	X	\$24.00	+	\$900,000	=	\$3.6
High	126,526	X	\$52.25	+	\$0	=	\$6.6

*Expungement:* Besides the costs for collection and analysis, the cost to expunge the record of DNA could increase. Under current law, an individual may request expungement if the conviction on which the authority for inclusion is based has been reversed or the case dismissed.

*DNA Samples:* Currently, two DNA samples are sent to the State Police laboratory; one for analysis and one that is stored for future use if another crime is committed. The sample for analysis is sent to a vendor, but will eventually be analyzed in house when a new State Police laboratory is completed and fully staffed. Once the profile has been entered into the database, the sample is destroyed. The current procedure is to require the individual to provide a copy of the court order and then to check the court order with the court or the State Police for verification. It is estimated that there have been five records expunged.

### **Explanation of State Revenues:**

*Background on False Informing:* Under current law, a false report in the official investigation of the commission of a crime is a Class B misdemeanor, or a Class A misdemeanor if it hinders the law enforcement process or results in harm to an innocent person. Under the bill, it would be a false report in an official law enforcement investigation. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000 and for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *DNA:* Local law enforcement agencies would have to collect more samples. Mouth swabs are used to collect samples for DNA analysis. (See *Explanation of State Expenditures.*)

*False Informing:* A Class B misdemeanor is punishable by up to 180 days in jail, and a Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *False Informing:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Indiana State Police.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics Online, 2006*; Ed Littlejohn, [Elittlejohn@isp.IN.gov](mailto:Elittlejohn@isp.IN.gov); Paul Misner, 317-921-5306.

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